

REMARKS

This Response is submitted in reply to the Office Action dated January 16, 2009 in accordance with the April 7, 2009 telephone interview courteously granted by the Examiner ("Interview"). Applicant has amended claims 1, 37, 47, 48, 55, 64, 73, 82, 88 and 89. Applicant has added new dependent claims 94-98. No new matter has been added by these amendments for the reasons provided below. Claims 13-23 and 25-36 remain canceled. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees due in connection with the filing of this Response.

The Office Action rejects claims 1, 3-6, 9-11, 37, 39-42, 45-48, 52-54, 58, 59, 61-63, 67, 68, 70-72, 76, 77, 79-81, 85, 86, 88 and 92 under 35 U.S.C. 103(a) as being unpatentable over Dickinson et al. (U.S. Patent No. 6,287,197; "Dickinson") in view of Tiberio (U.S. Patent No. 5,123,649; "Tiberio"). Also, the Office Action rejects claims 2, 12, 24, 38, 49, 55-57, 64-66, 73-75, 82-84, and 89-91 under 35 U.S.C. 103(a) as being unpatentable over Dickinson and Tiberio and further in view of Roffman et al. (U.S. Patent No. 6,375,568; "Roffman").

Applicant disagrees with such rejection at least for the reasons provided in the May 13, 2008 Response to Office Action. As described in such Response, Tiberio merely teaches the principle of increasing the payback percentage with increasing wager levels to incentivize the player to wager more. In the gaming industry, this principle was traditionally accepted as the only way to incentivize the player, so the operator would be required to sacrifice its "take" in order to increase volume. This can be equated to volume discount principles (i.e., realizing the same or greater profit by charging less for each individual unit and selling a larger volume of such units). In operation, Tiberio's gaming machine requires the player to increase the player's wager to receive a pay schedule with an increased payout rate or average expected value. See Fig. 3 of Tiberio. As a result, the operator of Tiberio's machine must sacrifice the "hold" percentage of the game to increase the play volume.

Dickinson teaches away from combination with Tiberio. Dickinson's scoring system would not work for its intended purpose if Dickinson's video game were structured to accept multiple "wagers" or coin levels as taught by Tiberio. Moreover,

absent improper hindsight, there is no apparent reason or motivation for one skilled in the art to modify Dickinson's video game scoring system to accommodate multiple coin levels or return coins to a player (i.e., as a payback percentage). At least for the reasons set forth above, Dickinson teaches away from combination with Tiberio, and Applicant respectfully submits that the proposed combination of Dickinson and Tiberio is improper.

Despite such traversal, Applicant has amended certain claims to advance the prosecution of this application, as discussed in the Interview.

Applicant has amended each of the independent claims 1, 37, 47 and 48 to include, among other elements, "... the first and second game display interfaces being associated with a same payout rate per wager unit . . ." and "... implement the same payout rate per wager unit independent of whether the first or second game display interface is displayed . . ." Applicant has amended independent claim 88 to include, among other elements, "... a same payout rate per wager unit associated with each of the first and second sets of reel symbols . . ." and "... implement the same payout rate per wager unit independent of whether the first or second set of symbols is generated . . ."

The application, as filed, supports such amendments. For example, the following excerpts from the published specification provide support:

[0068] FIGS. 3A to 3C illustrate one embodiment, wherein different interfaces are displayed for the same game having the same payout structure or payable. As will be discussed in much more detail below, FIGS. 3A to 3C each display the same game. In slot, for example, the different interfaces each display a game with the same variety of symbols, wherein each symbol is provided in the same proportion for each interface and each corresponding symbol of the different interfaces has the same function with respect to the payable. The paytables for each interface have a corresponding or like winning symbol or symbol combination, wherein each of those symbols or combinations yields the same payout for each interface. (Emphasis Added).

[0087] The related symbols are provided in the same amount on each of the reels 54. Moreover, the relative placement of the different symbols on the reels 54 is the same for each interface 60, 70 and 80. It does not therefore matter which interface the player plays in terms of the outcome of the game in the illustrated embodiment. The player plays the interface that provides the most fun and enjoyment to the player, at least at a certain period of time. The player may

for example feel that one of the interfaces is luckier than the remaining interfaces. In reality, the odds are exactly the same regardless which interface the player plays. The player may also prefer the symbols of one of the interfaces 60, 70 or 80 versus another. Moreover, a color scheme of one interface may be more appealing to the player than another color scheme or design. This makes the gaming machine more entertaining and interesting for the player by allowing the player to select the interface and change interfaces as the player desires. (Emphasis Added).

[0091] One embodiment of the present invention also includes other symbols which are related by functionality. For example, each of the symbols 160i, 170i and 180i, which have different indicia, each are involved with triggering a bonus game. Symbols 175, which on the other hand are common for each of the interfaces, trigger a common bonus game. The present invention therefore includes a bonus game triggered by a symbol belonging to each of the interfaces or by a symbol specific to each of the interfaces. In the illustrated embodiment, in which the average expected value of the game is the same regardless of which interface the player chooses, the bonus game for the symbols 160i, 170i and 180i is either the same bonus game regardless of which interface the player plays or is a bonus game specific to one of the interfaces, but which has the same average expected value as bonus games associated with the other interfaces. By structuring the bonus games and bonusing in such a manner, the player is not rewarded or punished for playing with any particular interface. (Emphasis Added).

Tiberio's payout rate varies with the wager amount. The greater the coin-in, the greater the payout rate. In contrast, the claimed subject matter enables the player to change from a first interface to a different, second interface by providing a greater coin-in. That change from the first to the second interface does not change the payout rate. This is because the payout rates for the first and second interfaces are the same. Dickinson and Roffman do not separately or collectively cure such deficiency of Tiberio.

In addition, Applicant added new dependent claims 94-98. The application, as filed, supports such amendments. For example, see the following excerpts of the published version of the application: paragraphs 10 and 122, and Figure 10.

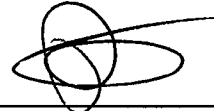
For at least the reasons set forth above, independent claims 1, 37, 47, 48 and 88 (and their dependent claims) are patentable over the proposed combination of references and are in condition for allowance.

An earnest endeavor has been made to place this application in condition for allowance, and such allowance is courteously solicited. If the Examiner has any questions related to this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

K&L GATES LLP

BY



Renato L. Smith
Reg. No. 45,117
Cust. No. 29159

Dated: April 16, 2009